

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:10-00124-02

ALBERT SIMS

SUPERVISED RELEASE REVOCATION AND JUDGMENT ORDER
MEMORANDUM OPINION AND ORDER

On December 7, 2011, the United States of America appeared by William B. King, II, Assistant United States Attorney, and the defendant, Albert Sims, appeared in person and by his counsel, David O. Schles, for a hearing on the petition on supervised release submitted by United States Probation Officer Joseph Black, the defendant having commenced a three-year term of supervised release in this action on February 10, 2011, as more fully set forth in the Judgment Including Sentence Under the Sentencing Reform Act entered by the court on January 28, 2011.

The court heard the admissions of the defendant and the representations and argument of counsel.

For reasons noted on the record of this proceeding, which are ORDERED incorporated herein by reference, the court found that the defendant has violated the conditions of supervised release in the following respects: (1) that the defendant violated the special condition that he remain on home confinement for a period of six months and the standard condition that he notify the probation officer at least 10 days prior to any change in residence inasmuch as he left his residence without permission on May 19, 2011, at 7:47 a.m. and had not returned by the time of the filing of the petition on June 20, 2011, rendering his whereabouts unknown; and (2) that the defendant used and possessed cocaine as evidenced by a positive urine specimen submitted by him on May 11, 2011, and his subsequent admission to the probation officer; all as admitted by the defendant on the record of the hearing and as set forth in the petition on supervised release.

And the court finding, as more fully set forth on the record of the hearing, that the violations warrant revocation of supervised release and, further, that it would unduly depreciate the seriousness of the violations if supervised release were not revoked, it is ORDERED that the supervised release previously

imposed upon the defendant in this action be, and it hereby is, revoked.

And the court having complied with the requirements of Rule 32(a)(1)(B) and (C) of the Federal Rules of Criminal Procedure, and finding, on the basis of the original offense, the intervening conduct of the defendant and after considering the factors set forth in 18 U.S.C. § 3553(a)¹, that the defendant is in need of correctional treatment which can most effectively be provided if he is confined, it is accordingly ORDERED that the defendant be, and he hereby is, committed to the custody of the United States Bureau of Prisons for imprisonment for a period of TIME SERVED, to be followed by a term of thirty (30) months of supervised release upon the standard conditions of supervised release now in effect in this district by order entered June 22, 2007, and the further conditions that (1) the defendant not commit another federal, state or local crime, (2) the defendant seek substance abuse and mental health treatment as instructed by the probation officer, undertaking to secure such treatment even in the event that no such instructions are forthcoming, and (3) it appearing that the defendant failed to

¹ Section 3553(a) factors include the advisory guideline range calculated under the United States Sentencing Guidelines which in this case is a suggested term of four to ten months imprisonment.

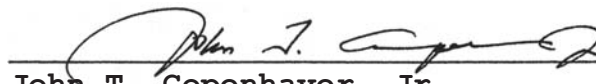
pay the fine of \$1,000 and the \$100 special assessment imposed by the court's sentencing order of January 28, 2011, the further special condition that the defendant pay the entirety of the fine and special assessment on or before December 20, 2011.

It is recommended that the defendant receive credit for time served while awaiting hearing and sentencing from approximately July 17, 2011, until December 7, 2011.

The defendant was remanded to the custody of the United States Marshal for return to the facility where he has been incarcerated and from which he is then to be forthwith released.

The Clerk is directed to forward copies of this written opinion and order to the defendant, all counsel of record, the United States Probation Department, and the United States Marshal.

DATED: December 7, 2011



John T. Copenhaver, Jr.
United States District Judge